HONORABLE RONALD B. LEIGHTON

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UNITED STATES DISTRICT COURT
WESTERN DISTRICT OF WASHINGTON
AT TACOMA

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US BANK TRUST NA,

CASE NO. C16-5849-RBL

Plaintiff,

ORDER FOR *SUA SPONTE*
REMAND

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v.

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VHANESTA ROBERTS, et al.,

DKT. #1

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Defendants.

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14   THIS MATTER is before the Court on Defendant Roberts' Motion to Proceed *In Forma*

15 *Pauperis* [Dkt. #1]. Plaintiff U.S. Bank filed an unlawful detainer action against Roberts on

16 August 24, 2016, seeking to evict her from 1839 E. Fairbanks St., Tacoma, WA 98404. On

17 October 4, 2016, Roberts removed the case from Pierce County Superior Court to this court,

18 asserting diversity and federal jurisdiction. She supplies no personal address, but she claims she

19 does not live in Washington and states U.S. Bank is headquartered in South Dakota. She also

20 claims U.S. Bank seeks to deprive her of her property, in violation of her Fourth and Fourteenth

21 Amendment rights.

22   Only actions that could have been filed in federal court may be removed to federal court

23 by the defendant. *See Caterpillar Inc. v. Williams*, 482 U.S. 386, 392, 107 S. Ct. 2425 (1987).

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1   Courts strictly construe the removal statutes in favor of remand and against removal. *See Duncan*

2   *v. Stuetzle*, 76 F.3d 1480, 1485 (9th Cir. 1996). The federal court has original jurisdiction of all

3   civil actions where the amount-in-controversy exceeds the sum or value of $ 75,000 and is

4   between (1) citizens of different states; (2) citizens of a state and citizens or subjects of a foreign

5   state; (3) citizens of different states and in which citizens or subjects of a foreign state are

6   additional parties; and (4) a foreign state as plaintiff and citizens of a state or of different states.

7   *See* 28 U.S.C. § 1332. It also has original jurisdiction over all civil actions arising under the

8   Constitution, law, or treaties of United States, 28 U.S.C. § 1331. Where the case neither meets

9   the requirements of diversity jurisdiction and nor arises under federal law, the federal court lacks

10   subject matter jurisdiction.

11   The sole issue in an unlawful detainer action is possession of property. *See Green Tree*

12   *Servicing, LLC v. Shoemaker*, 2005 U.S. Dist. LEXIS 36171, at *8–9 (W.D. Wash. July 15,

13   2005) (referencing RCW 61.24.060). "[T]here is no amount in controversy. …" *Id*. Because

14   Roberts therefore cannot meet 28 U.S.C. § 1332's amount-in-controversy requirement, the Court

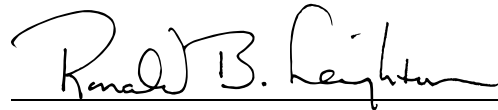15   lacks original jurisdiction.

16   A case "arises under" federal law only if the federal question appears on the face of the

17   plaintiff's well-pleaded complaint. *See Franchise Tax Board v. Construction Laborers Vacation*

18   *Trust*, 463 U.S. 1, 9-12, 103 S. Ct. 2841 (1983); *see also Taylor v. Anderson*, 234 U.S. 74, 75–

19   76, 34 S. Ct. 724 (1914). The federal question must be disclosed upon the complaint's face,

20   unaided by the answer or by the petition for removal. *See Gully v. First National Bank*, 299 U.S.

21   109, 113, 57 S. Ct. 96 (1936). A right or immunity created by the Constitution or laws of the

22   United States must be an element, and an essential one, of the plaintiff's cause of action. *Id*. at

23   112.

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DKT. #1 - 2

1   U.S. Bank filed an unlawful detainer action in Pierce County Superior Court [Dkt. #1-1].

2 That court has exclusive jurisdiction over the proceedings, RCW 59.12.050, and no federal

3 question is presented. The Court does not have original jurisdiction over U.S. Bank's unlawful

4 detainer claims.

5   Moreover, Roberts' removal is untimely. A defendant must file a notice of removal

6 within 30 days of receiving plaintiff's complaint or a summons. *See* 28 U.S.C. § 1446. U.S. Bank

7 initiated proceedings on August 24, 2016, and Roberts removed the case on October 4, 2016—41

8 days later.

9   Because U.S. Bank could not have filed this case in federal court, the Court *sua sponte*

10 REMANDS it to the Pierce County Superior Court. The Court lacks jurisdiction to reach the

11 merits of Roberts' *IFP* motion.

12   Dated this 18th day of October, 2016.

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                          Ronald B. Leighton

15   United States District Judge

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